

HAMPTON PLANNING BOARD – MINUTES
March 1, 2006 – 7:00 PM

PRESENT: Tracy Emerick, Chairman
Tom Higgins, Vice Chairman
Fran McMahon, Clerk
Cliff Pratt, Selectman
Keith Lessard
Bob Viviano
Bill Bilodeau, Alternate
James Steffen, Town Planner

ABSENT: Tom Gillick

Chairman Emerick called the meeting to order at 7:00 PM by introducing the Board members. Mr. Lessard led the Pledge of Allegiance to the flag.

I. CONTINUED PUBLIC HEARINGS

5-52) Seaview at Hampton, LLC
Special Permit to Impact Wetlands Conservation District at
24 Harbor Road
Map 295 Lot 64
Owner of Record: Seaview at Hampton LLC

Chairman Emerick announced that the applicant has requested continuation of the application until the March 15th meeting of the Planning Board.

MOVED by Mr. Lessard to grant the requested continuation to the March 15th meeting of the Planning Board.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

**II. PUBLIC HEARING FOR AMENDMENT TO SITE PLAN REVIEW
REGULATIONS AND SUBDIVISION REGULATIONS**

- Amend APPENDIX B Fee Schedule to increase the Town fee for recording plans.

BOARD

Mr. Steffen presented the proposed change to APPENDIX B of the Site Plan Review Regulations and Subdivision Regulations - Fee Schedule. The following wording will be added to the Fee Schedule:

RECORDING FEES: Registry fee plus mileage and a staff time fee of \$35.00.

PUBLIC

No comments

BOARD

MOVED by Mr. Viviano to accept this change.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

III. NEW PUBLIC HEARINGS – PLANNING BOARD APPLICATIONS

- 6-1) John & Nora Parell
Special Permit to Impact Wetlands Conservation District at
1038 and 1040 Ocean Boulevard
Map 116 Lots 15 and 17
Owner of Record: John and Nora Parell

Ms. Nora Smith-Parell presented her application. She stated that they wish to add additional rocks to the seawall for protection.

BOARD

The applicant was asked if she owned both properties. She stated they did.

PUBLIC

No comments

BOARD

Mr. Pratt asked about whether the vegetation would remain in the area of the wall. Ms. Parell indicated it would.

MOVED by Mr. Lessard to grant the special permit to impact the Wetlands Conservation District at 1038 and 1040 Ocean Boulevard, Map 116, Lots 15 and 17, subject to the following conditions:

- The addition of any rocks will be vertical only; no additional extension of the wall towards the ocean.
- No rocks shall encroach eastward onto Town of Hampton property.
- New rocks will not disturb the existing Rosa Ragosa along the wall.
- No fill shall be added to the westerly side of the wall without a new or amended permit application.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.

- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. (Silt fence and hay bales)
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.
- The Conservation Commission will be notified in writing upon commencement and completion of the project and before an occupancy permit is issued.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

IV. ATTENDING TO BE HEARD

- 6-30) Luis G Costa
Change of Use from Office to Restaurant/Pizzeria at
680 Lafayette Road
Map 126 Lot 11
Owner of Record: Tony Jackson

Mr. Tony Jackson, Owner, presented the application. He indicated that the current tenant, a bookkeeping office, is leaving the space. Mr. Costa wishes to lease the space to run a pizza business that will be primarily be take-out. Mr. Jackson indicated that this space is next door to Hoaty's restaurant.

The building has 14 parking spaces right now. There is a right-of-way, and people park in that right-of-way.

BOARD

Mr. Viviano asked if there were apartments in the building. Mr. Jackson said that there are two apartments in the building. Mr. Viviano asked if the parking requirements are met for the entire building.

There was discussion of the seating capacity of Hoaty's restaurant and the parking requirements for that business.

Mr. McMahon asked what the seating capacity of the pizza restaurant would be. Mr. Costa said it would be about 12 seats. He intends to have a primarily take-out business.

There was discussion of the parking requirements for the three uses. There was also discussion of the appropriateness of parking in the right-of-way.

Mr. Jackson stated that Hoaty's business is primarily in the morning. Mr. Costa wishes to operate from 11:00 AM to 10:00 PM. There would be overlap from 11:00 to 1:00 with Hoaty's. Mr. Jackson explained how he arrived at his plot/parking plan. The building did not appear on the plan. The Board indicated that more parking spaces are needed than what is available on the property.

At the recommendation of the Board, the applicant withdrew the application without prejudice.

6-31) Ken & Russ Kolifrath
Change of Use from Storage to Retail at
868 Rear Lafayette Road
Map 71 Lot 11
Owner of Record: Kenneth Kolifrath

Mr. Russ Kolifrath and Mr. Ken Kolifrath presented this application. The owners wish to demolish the building and rebuild it in the same footprint. They then wish to change the use from storage to retail.

BOARD

There was discussion of the appropriateness of a Change of Use if the applicant intends to demolish the building and build a new structure.

Mr. Lessard asked if the pool was ever constructed. It was not.

Discussion of parking took place. Based on the plan submitted, the property is short four parking spaces.

The Board asked what type of retail use was planned. The applicants indicated they might move the scuba shop from the front building to the rear building and lease out the front building.

The Board asked that the applicant return with a plan depicting the necessary parking spaces.

MOVED by Mr. Lessard to continue this Change of Use request to the March 15th meeting of the Planning Board.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

III. NEW PUBLIC HEARINGS (CONTINUED)

6-22) John Gebhart
Special Permit to Impact Wetlands Conservation District at
4 Bailey Avenue
Map 298 Lot 5
Owner of Record: John & Linda Gebhart

Mr. John Gebhart presented this application. He indicated he wished to hook up to the municipal sewer system and remove the existing septic system. He would also like to construct an addition in the rear of the structure and replace the front stairs. The addition will be on pilings. Sewer impact would be 150 square feet. Concrete piers impact would be 40 square feet, 35 of which would be restored to original condition.

BOARD

The Board questioned the depictions on the plans submitted. There was discussion of which decks are to be replaced and expanded. It was determined that the front deck would be replaced, and the rear deck would be expanded. The side deck that extends onto the neighbor's property will not be changed. Mr. Gebhart indicated that he had an easement for the side deck. Mr. Higgins asked that a copy of the easement be provided to the Town Planner.

PUBLIC

No comments

BOARD

MOVED by Mr. McMahon to grant a Special Permit to impact Wetlands Conservation District at 4 Bailey Avenue, Map 298 Lot 5, subject to the following conditions:

- Submittal of the referenced easement to the Town Planner.
- The area underneath the addition will remain open, allowing the elements to reach the ground, allowing for filtration of runoff etc.
- There will be a permeable surface driveway.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer, or in the wetlands.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. Silt fence and hay bales.
- The buffer should remain undisturbed to the degree possible in the process of construction and elevations not be changed. No additional fill is allowed. No change in elevation is allowed using existing fill.

- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface, etc. in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.
- The Conservation Commission will be notified in writing upon commencement and completion of the project.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

6-24) John Simmons
Site Plan Review at
886 Lafayette Road
Map 71 Lot 3
Waivers from Site Plan Regulations Section V.E. Detailed Plan – Storm
water drainage control plan & Section VII.B.1 Parking Lot Design
Owner of Record: Simmons Trust

Mr. John Anthony Simmons presented his application. He would like to put an addition on the back of the building. He indicated there are two waivers with the request - one for drainage and one for parking. He would like to have the parking pervious, since the property is in the Aquifer Protection Zone.

BOARD

The Board asked what the addition is intended to be used for. Mr. Simmons indicated it would be partially his office and partially rented office space.

Mr. Lessard asked where the propane tank would go. Mr. Simmons indicated he intended to hook into natural gas in the street and eliminate the propane tank.

There was discussion of the parking. Mr. Steffen indicated he was concerned that space #10 may not be viable since it is so close to the addition. He suggested that spaces #9 and #10 could be combined for a handicapped parking space. With the new construction, one handicapped space would be required. Nine spaces would be required in all. Combining two of the ten spaces would still meet zoning requirements.

Mr. McMahon asked where the curb cut was. Mr. Simmons pointed it out on the plan. The front three parking spaces can be accessed from Lafayette Road.

PUBLIC

No comments

BOARD

Mr. Bilodeau asked if the vegetation in the rear would be removed. Mr. Simmons said that these trees were actually sumac saplings but they would be removed.

The Board asked where the driveway was located on the plan. Mr. Simmons pointed this out on the north side of the lot.

Mr. Lessard asked for the current sealed surface percentage as compared to the allowed sealed surface in an Aquifer Protection Zone. There is 27% sealed surface. According to the Zoning Ordinance, 60% maximum sealed surface is allowed per non-residential lot in the Aquifer Protection Zone.

Board members indicated they had concerns with the parking. There did not appear to be space for snow storage. It also appears that parking space #4 drops two feet in elevation. Mr. Simmons indicated that the plan was not to scale in that location because there is, in reality, an additional 47.85 feet of property not shown. The parking space does not drop off as much as it appears.

There was a discussion of the floor plans, which depict office space in the basement. It appears, based on this, that additional parking spaces are needed. Also, there is a question of adequate egress from the below grade level.

There was a question as to where the existing billboard was located in relation to the property line.

Mr. Steffen indicated that the width of the driveway was only 18 feet. He wondered if the Board wanted to get input from the Fire Department to see if fire equipment could pass through the driveway.

There is no dumpster shown on the plan. Mr. Simmons indicated he uses curbside trash pickup.

Mr. Steffen indicated there was also no lighting shown on the plan.

The Board would like to see snow storage depicted on the plan.

The Board recommended that the applicant discuss the basement office with the Building Inspector.

The required parking needs to be shown on the plan.

Mr. Steffen will provide Mr. Simmons with a list of outstanding items.

MOVED by Mr. Viviano to continue this public hearing to April 5th. In the interim the plan will be completed, and the following steps will be taken:

- The plans will be submitted to the Fire Department for review.
- Complete plans will be submitted to the planning office by March 31st.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

- 6-25) Frederick R Cyr
Condominium Conversion at
100 Ashworth Avenue
Map 290 Lots 67 & 73
Waiver from Subdivision Regulations Section V.E (Detailed Plan)
Owner of Record: Same as above

Mr. Stephen Ells, Holmes & Ells, and Mr. Frederick Cyr, Owner, presented this application.

Mr. Ells indicated that the surveyor, Mr. Cote, could not attend this evening. Mr. Ells described the plans before the Board. He indicated that Mr. Cyr owns three contiguous lots that are shown on the site plan. Map 290 Lot 73 is a parking lot. Map 290 Lot 67 is an apartment house not involved in the proposal. The proposal is for Map 290 Lot 66 which contains three dwelling units and a commercial unit. The parking for the condominiums will be at Map 290 Lot 73, designated as spaces #1, 2 and 3. The parking will be deeded and assigned. He indicated that the commercial unit is exempt from the parking requirement as the property falls within the BS zone south of First Street.

BOARD

Mr. Higgins asked if a variance is needed for parking off-site. He cited Article 3 of the 2006 Town Warrant – Amendment to the Zoning Ordinance adding Section 6.3.10: *“Condominium Conversions of Pre-existing Non-conforming Uses: At least one (1) assigned 9’ x 18’ parking space per unit must be provided on-site.”* There was discussion of this issue.

Also, it appears that an existing condition is that the take-out window and porch of the commercial unit encroaches sizeably on Town land. There was discussion of the Planning Board’s responsibility with respect to this issue.

PUBLIC

Ed Costello, 5A Manchester Street, stated he has a problem with the parking for this property. He indicated that the applicant’s current tenants try to park on his land. They also park on Manchester Street. Tenants do not use the parking lot designated by the applicant. He indicated there has always been a parking problem there. Also, he said he did not receive notice of the meeting. It was determined that the notice was sent to the listed address for both owners, which was Beverlee Raymond’s address.

BOARD

Mr. Ells refuted the Board's interpretation of the parking requirement. He indicated Article 6.3.9 of the Zoning Ordinance is what he is using for this project – "*All parking must be on site or be assured perpetual existence by easement.*" He also referred to 356.b.5 of the State Condominium Law, which prohibits discrimination based on condominium form of ownership. He opined that an off-site parking easement meets the requirements of the Town ordinance.

MOVED by Mr. Higgins to deny the condominium conversion for the following reasons:

- It would have an adverse effect on the neighborhood.
- Lack of on-site parking that does not comply with proposed Section 6.3.10 of the Zoning Ordinance.
- Sizeable encroachment of the building onto Town property.

SECOND by Mr. Bilodeau

VOTE: 6-1-0

MOTION PASSED

IV. CONTINUED PUBLIC HEARINGS

- 6-20) Public Service of New Hampshire
Site Plan Review at
70 Timber Swamp Road
Map 102 Lots 1, 2 and 4
Owner of Record: Public Service of New Hampshire
- 6-21) Public Service of New Hampshire
Special Permit to Impact Wetlands Conservation District at
70 Timber Swamp Road
Map 102 Lots 1, 2 and 4
Owner of Record: Public Service of New Hampshire

Mr. David Manugian, Project Manager for Ambient Engineering, and Mr. Walt Bilynsky, Project Manager from PSNH, presented an update on the status of this application.

Mr. Bilynsky discussed the conveyance of land as conservation land to mitigate the wetlands impact. (The project will involve expanding the cement pad and clear-cutting the area of expansion.) This is under discussion with the Conservation Commission. They are talking about approximately 20 acres of land; and are discussing ways of making the 20 acres more contiguous to Town land. Mr. Bilynsky indicated that Public Service is open to further discussion of this matter.

Mr. Manugian said they have reviewed the Town's independent engineer's comments and have responded to those comments.

BOARD

No comment

PUBLIC

No comment

BOARD

There was discussion of an appropriate date for continuation. This should be contingent on agreement with the Conservation Commission with respect to mitigation.

Mr. McMahon stated he was present at the Conservation Commission meeting, and the status as described is accurate. Approximately 20 acres is the agreed upon transfer to the Town.

There was discussion of the course of action between this date and March 15th. Mr. Steffen also provided the status of departmental review of the application.

MOVED by Mr. Viviano to continue the above referenced applications to the Planning Board meeting of March 15th.

SECOND by Mr. Bilodeau

VOTE: 7-0-0

MOTION PASSED

6-6) Jean Boudreau
Site Plan Review at
375 Ocean Boulevard
Map 275 Lots 28 + 25
Owner of Record: First & Ten Property Corp
Jurisdiction Accepted January 4, 2006

Stephen Ells, Attorney, and Joe Coronati, Jones & Beach, presented this application. Mr. Ells stated Ms. Boudreau is currently the option holder but is purchasing and closing on the property. The project is to move the Sea Castle Motel from its existing site to the proposed location.

Mr. Coronati stated he has inquired about the drainage outfall to Fuller Acres. There was a question as to the ownership of the existing drainage infrastructure. It was thought that it is a State drain line, even though Fuller Acres is a Town road. That is still being researched.

He stated most of the documentation issues on the plans, raised by the Town's engineering consultant, have been taken care of.

BOARD

Mr. Lessard asked if there would be a fence on the easterly side of the property. Ms. Boudreau indicated she would be living next door. She could put bumper guards along that line if the Board wishes, but she is not inclined to install a fence.

There was discussion of headlights shining into abutters' properties on Fuller Acres. There was concern as to what might be developed on the adjoining lot.

The applicant represented to the Board that she is acquiring the adjoining lot and will be building a single-family home on that lot.

PUBLIC

Matt Taylor, representing KPS, Inc. an abutter to the south spoke. He said parking is a significant issue for Fuller Acres residents. The problem would be with visitors and overnight guests. He would like a deterrent to parking on Fuller Acres, either by striping or no parking signs. He also has buffer issues. He did not see exterior lighting on the plans. They are concerned as to what the architectural elements would be – siding, color, etc.

BOARD

Ms. Boudreau indicated that the structure would remain essentially the same. Color has not as yet been decided upon. She does have a site designer working on these items.

There was discussion of the current and planned lighting for the lot. There would be lights on the decks as there were previously. There are no plans for additional common area lighting. There is a streetlight on Ocean Boulevard that can be relocated.

Mr. Lessard stated the safety of renters is a good point. There was a discussion of the sidewalk on Fuller Acres and the possibility of a sidewalk on the applicant's side of the street.

Mr. McMahon asked if this project had gone to the Hampton Beach Area Commission. Mr. Steffen indicated that it had. Since there are no changes to the building except for the siding, there was not much for the Commission to review.

Mr. Higgins asked for clarification of the process to occur in moving the building. He asked about curb cuts and how they would be done. Mr. Coronati explained how the sidewalk/curb cuts would be done (asphalt tip-downs on Town sidewalk). The parking lot will be asphalt.

Mr. Higgins said the only parts of that lot that appeared to be pervious were the snow storage area, under the decks and a portion of the Fuller Acres entrance. He questioned

how this could be 29% pervious surface. Ms. Boudreau indicated that she could use a gravel surface for parking to increase the amount of pervious surface.

Mr. Pratt asked about the fence on the south side of the lot. There was additional discussion of fencing. Ms. Boudreau agreed to construction of a fence on the Northeasterly side of the property.

There was additional discussion of locations of future lights. There will be at least 2 lamps added on the northeasterly side of the lot.

Chairman Emerick indicated that the responsibility for drainage onto Fuller Acres is a matter to be determined between the State and the Town.

Mr. Steffen said Ambit Engineering's comments involved minor plan changes.

The Board reviewed the lots involved. Mr. Lessard confirmed that there would be no new lot lines.

MOVED by Mr. Pratt to approve the site plan review at 375 Ocean Boulevard, Map 275 Lots 28 + 25, Project # 05234, subject to the following conditions:

1. Receipt of a New Hampshire Department of Transportation Driveway Permit.
2. Resolution of the drainage overflow issue for the drain on Fuller Acres.
3. Final plans shall be revised to address any Ambit Engineering comments that are outstanding on the engineering and drainage review.
4. A Notice of Lot Merger shall be completed. It is noted that the project parcel is Map 275, Lots 25 & 28. The merged lot shall become Map 275, Lot 28.
5. The Board defines "active and substantial" for the purposes of RSA 674:39 as after completion of all public / private infrastructure improvements.
6. A decorative fence will be constructed along the Northeasterly boundary of the lot.
7. Two (2) parking lot pole lights will be installed on the Northeasterly side of the lot.
8. Prior to final approval, the applicant shall submit seven (7) copies of the final plans, recordable Mylar, and applicable recording fees.

SECOND by Mr. McMahon

VOTE: 7-0-0

MOTION PASSED

- 6-18) Hannaford Brothers Co – Attn: Jay Lord
Special Permit to Impact Wetlands Conservation District at
630 Lafayette Road
Map 126 Lots 12 + 24
Owner of Record: Hannaford Brothers Co.

An Attorney for Hannaford Company, Cindy Balcius and Tracy Tarr, NH Soil Consultants, and Jay Lord, Hannaford, presented this application.

Ms. Tarr reviewed the status of the application. She provided a Temporary Easement Deed from the abutters authorizing Hannaford to perform work on the storm water drainage ditch; a State DES Wetlands Permit; and a stamped site plan.

BOARD

Mr. Lessard asked about the snow plowing/storage procedure. He indicated that there was snowmelt going into the ditch, therefore, he believes that Hannaford has some responsibility for the ditch. There was discussion of this issue.

Mr. Higgins asked for clarification of the location of the ditch. He also asked for approvals on the original site plan. There was discussion of permitted historical discharge of run-off onto the railroad property via the ditch.

Mr. Steffen stated the applicant now has permission from the neighbors to work on the ditch.

Mr. Lessard asked how the maintenance would be handled in the future. Mr. Lord reviewed the history of drainage over the past years. The build-out of Walgreen's has contributed to the failed drainage. Also, an 18" culvert was added when the State/Town reconstructed Route 1. There have also been other new developments in the area.

Ms. Balcius said they were over-designing the ditch to try to compensate for the additional flow coming through the ditch.

Mr. Lord indicated he did not believe it was Hannaford's responsibility to maintain the drainage from upstream parties in the future.

PUBLIC

Ken Lessard, 15 Exeter Road, stated that in 1986 Hannaford spent money cleaning out the ditch, because he cleaned it. He stated the reason for the problem is that the Town changed the State plan for water flow in order to stop the flooding on Hackett's Lane. He indicated the problem is not Walgreen's or Hannaford's. He feels the Town has placed an increased burden on drainage through this ditch. He believes Hannaford should be granted the right to fix this as best they can, but that a permanent solution is the responsibility of the Town.

BOARD

MOVED by Mr. Pratt to grant the Special Permit to Impact Wetlands Conservation District at 630 Lafayette Road, Map 126 Lots 12 + 24, Plan #05-0429, subject to the following conditions:

- Use of Wetlands Conservation District markers along the wetland buffer at the owner's expense with Conservation Commission approval.
- Lawn care must follow the guidelines set forth in the Shoreland Protection Act. Grass clippings will not be placed in the buffer or in the wetlands.
- Proper erosion control will be in place before construction begins and remain in place until the area is stabilized and removed after construction is complete. (Silt fence and hay bales)
- There are to be no additional structures such as sheds, swimming pools, gazebos, patios or other sealed surface in the buffer, other than that shown on the plan. A new Special Permit is required for the erection of any structure in the buffer.
- The Conservation Commission will be notified in writing upon commencement and completion of the project.

SECOND by Mr. McMahon

VOTE: 6-1-0

MOTION PASSED

V. CONSIDERATION OF MINUTES of February 15, 2006

MOVED by Mr. Bilodeau to accept the minutes as written.

SECOND by Mr. Viviano

VOTE: 6-0-1

MOTION PASSED

VI. CORRESPONDENCE

None

VII. OTHER BUSINESS

- Request for release of security for completion of Katie Lane:

DPW has been copied but we have not received their signoff. The Board instructed the Planner to continue the security until Department of Public Works signoff is received.

- Consult with Town Attorney regarding Ocean Club Change of Use:

Chairman Emerick said now that they have a change of use, they need a new site plan because of consumer protection issues. They are proposing new use of vacant space in the building, resulting in the need for an amended site plan.

- Planning Handbooks:

Planning Handbooks are available from the State for \$5 each. The Board's wish is to purchase sufficient copies for all Board members.

- March 15th Agenda:

Chairman Emerick announced that the first order of business for next meeting will be appointment of a new Chairman and Vice-Chairman for the Planning Board.

- Hampton Beach Area Commission

Mr. Steffen raised the issue of Hampton Beach Area Commission responsibilities for design review. He is concerned that it is becoming another layer of review. He noted that the HBAC was formed as an advisory board. Mr. Higgins clarified that he serves at HBAC as a Planning Board liaison. He then brings forward to the Planning Board the HBAC recommendations.

It was suggested that the HBAC should coordinate with the Planning Board on guidelines they are developing for aesthetic appearance of developments in the beach area. It was noted that design review at this time is a voluntary process. Planning would have to modify its procedures to encourage applicants to go to HBAC earlier in the design process.

There was extensive discussion of possible options for encouraging the public to work with HBAC prior to developing architectural plans.

MOVED by Mr. Bilodeau to adjourn.

SECOND by Mr. Viviano

VOTE: 7-0-0

MOTION PASSED

Meeting adjourned at 10:05 PM.

Respectfully Submitted,
Barbara Renaud
Planning Board Secretary